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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,723	12/30/2003	Christopher Robert Dale Wilson	33331-US-CIP3 (85801_CIP3)	7524
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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791				
EXAMINER				
NGUYEN, QUANG N				
ART UNIT		PAPER NUMBER		
2441				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

creganoa@addmg.com

Office Action Summary

Application No.

10/748,723

Applicant(s)

WILSON ET AL.

Examiner

QUANG N. NGUYEN

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-28, 39, 40, 42-49, 51-55 and 65-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-28, 39, 40, 42-49, 51-55 and 65-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

1. This Office Action is responsive to the Amendment filed on 10/01/2007. Claims 24-28, 45, 49, 51 and 55 have been amended. Claims 65-69 have been added as new claims. Claims 24-28, 39-40, 42-49, 51-55 and 65-69 remain pending.

Claim Objections

2. Claims 24 and 65-67 are objected to because of the following informalities:

On line 19 of claims 24 and 65: "storing the PPT message" should be "storing the ~~[PPT]~~ PTT message".

On line 4 of claims 66-67: "sending the PPT message" should be "sending the ~~[PPT]~~ PTT message".

On line 10 of claims 66-67: "using the message sender's stored user ID" should be "using the PTT message sender's stored user ID".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 24-28, 39-40, 42-49, 51-55, 65 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable by McConnell et al. (US 2003/0149774 A1), hereinafter “McConnell”, in view of Stubbs (US 6,930,994).

5. As to claim 24, **McConnell** teaches a method, comprising:

starting a client on a device selected from the group consisting of the wireless mobile terminal (*i.e.*, *Mobile Station MS 48*) and the networked computer (*i.e.*, *the networked computers A, B and C as in Fig. 3*), the client for communicating messages in a push-to-talk (PTT) mode (**McConnell, paragraphs [0051-0054]**);

the client sending a login message to a server (*i.e.*, *an application server such as PTT server 68, IM server 70, or VM server 72*) located outside of the wireless carrier network, the server communicating with the client by way of a packet network (*i.e.*, *by way of IP network 50 as in Fig. 3*) (**McConnell, paragraphs [0051-0054] and [0068]**);

the server establishing a communication session with the client in response to receiving the login message (*i.e.*, *in response to receiving the service request from the MS 48, the application server might be setting up and facilitating a group communication, such as a PTT session, or multicasting an instant message, or prompt for and record a voice message*) (**McConnell, paragraphs [0042] and [0051-0054]**);

at the device, selecting one or more recipients for a PTT message, the recipients including the other device from the group consisting of the wireless mobile terminal and the networked computer (*i.e.*, a user of MS 48 invokes a communication application on MS 48, seeking to establish communication session over IP network 50 with a user operating networked terminal B) (**McConnell**, paragraphs [0072-0075] and [0080]);

sending the PTT message to the server by way of the packet network using a push-to-talk function provided by the client (*i.e.*, a user of MS 48 invokes a PTT application to set up the PTT session between the communicating entity MS 48 and entities A, B and C) (**McConnell**, paragraphs [0072-0075]); and

the server selectively forwarding the PTT message to the recipients that are available (**McConnell**, paragraphs [0072-0079]) and storing the PTT message for later delivery to unavailable recipients, based on the respective availability of each of the recipients (**McConnell**, paragraphs [0004], [0064-0065] and [0080-0084]).

McConnell does not explicitly teach determining the availability of each of the recipients to currently receive the PTT message.

In the same field of endeavor, **Stubbs** teaches voice and/or image data packets are transferred by a packet handler between user stations in a GSM-type mobile communications system, wherein the recipient records from the PUD 52 which identify the recipients which are currently available for receipt a message (**Stubbs**, col. 9, lines 1-29 and col. 13, lines 50-60).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the feature of determining the availability

of each of the recipients to currently receive the PTT message, as disclosed by **Stubbs**, into the teachings of **McConnell**. One would be motivated to do so to allow the system to identify available recipients and recipient addresses for a message to be transferred, and to store messages in the packet store for unavailable recipients (**Stubbs, col. 13, lines 55-60**).

6. As to claim 25, **McConnell-Stubbs** teaches the method of claim 24, wherein the PTT message is selected from the group consisting of a voice message, a text message, and a combination of the foregoing (**McConnell, paragraphs [0004] and [0042]**).

7. As to claim 26, **McConnell-Stubbs** teaches the method of claim 24, further comprising the server forwarding the PTT message to an external email system (*i.e., the three services: PTT service, IM service and VM service being used as examples, and without limitation, wherein the particular services carried out by application server 16 can also take any of variety of forms such as an email service*) (**McConnell, paragraphs [0004] and [0042]**).

8. As to claim 27, **McConnell-Stubbs** teaches the method of claim 24, further comprising the server forwarding the PTT message to an external instant messaging (IM) system (**McConnell, paragraphs [0004] and [0042]**).

9. As to claim 28, **McConnell-Stubbs** teaches the method of claim 24, wherein the PTT message includes streaming voice (*i.e., nowadays, electronic devices such as mobile phones, PDAs and the like, are capable of communicating voice, data, images, video and other multimedia content, wherein streaming voice is a form of multimedia content*) (**McConnell, paragraphs [0004], [0039] and [0042]**).
10. Claims 39-40 and 42-44 are corresponding computer program product claims that do not recite or define any new limitations above claims 24-28; therefore, they are rejected under the same rationale.
11. Claims 45-49 are corresponding wireless terminal claims that do not recite or define any new limitations above claims 24-28; therefore, they are rejected under the same rationale.
12. Claims 51-55 recite networked device (*i.e., networked terminals A, B, or C*) claims that contain similar limitations as wireless mobile terminal (*i.e., Mobile Station MS 48*) claims 45-49; therefore, they are rejected under the same rationale.
13. Claim 65 is a corresponding system claim that does not recite or define any new limitations above claim 24; therefore, it is rejected under the same rationale.

14. As to claim 69, **McConnell-Stubbs** teaches the method of claim 24, further comprising the client periodically sending a keep-alive message to the server for maintaining as active the communication session between the server and the client *(Official Notice taken here that it's obvious to one of ordinary skill in the art that the mobile/client device periodically sends a keep-alive (ping) message to the server to maintain the communication session active).*

Allowable Subject Matter

15. Claims 66-68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

16. Applicant's arguments as well as request for reconsideration filed on 10/01/2007 have been fully considered but they are moot in view of the new ground(s) of rejection.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

18. Further references of interest are cited on Form PTO-892, which is an attachment to this Office Action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the organization is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang N. Nguyen/
Examiner, Art Unit 2141